

EXHIBIT 3

ANDREW WILEY, PH.D.
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No.
1:16-cv-03088-ELR

vs.

STATE OF GEORGIA,

Defendant.

~~~~~

Video Recorded Deposition of:

ANDREW WILEY, Ph.D.

Monday, October 30, 2023

8:59 a.m.

Jones Day  
901 Lakeside Avenue  
Cleveland, Ohio 44114

Reported By: Sarah R. Drown, RDR, CRR

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

2

APPEARANCES OF COUNSEL

On behalf of the Plaintiff:

MATTHEW K. GILLESPIE, ESQ.  
CRYSTAL ADAMS, ESQ.  
CLAIRE CHEVRIER, ESQ. (Via Zoom)  
FRANCES COHEN, ESQ. (Via Zoom)  
ANDREA HAMILTON WATSON, ESQ. (Via Zoom)  
VICTORIA LILL, ESQ. (Via Zoom)  
JESSICA POLANSKY, ESQ. (Via Zoom)  
LAURA TAYLOE, ESQ. (Via Zoom)  
MICHELLE L. TUCKER, ESQ. (Via Zoom)  
U.S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Ave., NW  
Suite 7273 NWB  
Washington, D.C. 20530-0001  
202.803.1302  
Matthew.gillespie2@usdoj.gov  
Crystal.adams@usdoj.gov  
Claire.chevrier@usdoj.gov  
Frances.cohen2@usdoj.gov  
Andrea.watson2@usdoj.gov  
Victoria.lill@usdoj.gov  
Jessica.polansky@usdoj.gov  
Laura.tayloe@usdoj.gov  
Michelle.tucker@usdoj.gov

On behalf of the Defendant:

MELANIE JOHNSON, ESQ.  
ANNA EDMONDSON, ESQ.  
ROBBINS ALLOY BELINFANTE LITTLEFIELD LLC  
500 14th Street, Northwest  
Atlanta, Georgia 30318  
678.701.3258  
Mjohnson@robbinsfirm.com  
Aedmondson@robbinsfirm.com

ALSO PRESENT:

STACEY SUBER-DRAKE, ESQ. (Via Zoom)  
GEORGIA DEPARTMENT OF EDUCATION

BRIAN MCCOLLUM, VIDEOGRAPHER

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
23

1 I've been, for example, a student in Virginia  
2 and a teacher.

3 Q. Okay.

4 A. So less so about how that process --

5 Q. Sure.

6 A. -- of consulting works than my  
7 experience as a teacher.

8 And also when I was in Massachusetts  
9 as a postdoctoral research associate.

10 Q. Understood.

11 So other than teacher credentialing  
12 with the state of Ohio through education  
13 pathways and the other consulting that we  
14 discussed, have you consulted with any other  
15 state departments of education?

16 A. No other state departments of  
17 education.

18 Q. Okay. And we discussed the  
19 professional development you provided. Have you  
20 provided any other consultation services for  
21 school districts?

22 A. I don't think so. I would not say in  
23 a formal sense. I haven't provided, you know,  
24 consultation. I have interactions with  
25 different school districts around our, you know,

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

33

1 times a year?

2 A. Yes.

3 Q. Okay.

4 A. That's correct.

5 Q. Thank you --

6 A. Sure.

7 Q. -- for bearing with me --

8 A. Yes.

9 Q. -- on that.

10 Dr. Wiley, have you ever consulted on  
11 the adequacy on an educational environment?

12 A. I would probably need that clarified.

13 Q. Sure.

14 Have you ever advised an LEA or any  
15 sort of educating entity about whether they were  
16 providing adequate supports and services in a  
17 particular environment?

18 MS. JOHNSON: Object to form.

19 You can answer.

20 THE WITNESS: Okay.

21 A. I think that what would most closely  
22 fit with what you're describing was my work for  
23 three years as a behavior specialist.

24 So a lot of what I did as a behavior  
25 specialist is I would meet with teachers, I

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

34

1 would meet with different support folks, and I  
2 did observe in classrooms and would talk about  
3 things like, you know, the behavior supports  
4 that were, were not in place. So I did that for  
5 several years.

6 That was at a time when functional  
7 behavior assessment was a brand new requirement  
8 of the law.

9 So I did both consulting around  
10 functional behavior assessment, where you're  
11 looking at those conditions, right, and saying  
12 okay, what's (unintelligible) behavior, what  
13 are the consequences that follow behaviors, so  
14 that we can try to develop a hypothesis about  
15 why this student's exhibiting a behavior.

16 So I think it's part of that work. I  
17 was absolutely with a school team evaluating the  
18 conditions around a student and talking about  
19 whether or not there were things that we could  
20 change in order to provide better support to the  
21 student, if that makes sense.

22 Q. When was the time period for that  
23 work?

24 A. '90 -- the late '90s.

25 Q. So --

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
37

1 report that said here's where we see strengths,  
2 here's where we see weaknesses, and this is our  
3 advice in terms of how to improve your program.

4 Does that make sense?

5 Q. It does.

6 A. That definitely was consultative while  
7 I was at U Mass, Boston.

8 Q. And what entity was it that you were  
9 evaluating?

10 A. I will have to get -- it was part of  
11 that collaborative system. And so they had  
12 various names of collaboratives around the  
13 state. Again, I could find that if you need it,  
14 the exact name.

15 It was one of the schools within the  
16 collaborative. You know, this was the model  
17 that Massachusetts -- I think they still use,  
18 because I did take a peek as I was writing my  
19 report, where they have special schools for kids  
20 with behavior-related disabilities and it was  
21 one of those.

22 It's not jumping into my brain, I'm  
23 sorry, but I could find it later if you want.

24 Q. No. That's totally fine.

25 So, Dr. Wiley, fair to say in the last

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
38

1 15 years or so, though, you haven't conducted  
2 sort of a third-party analysis of the adequacy  
3 of an educational environment?

4 MS. JOHNSON: Object --

5 A. I --

6 MS. JOHNSON: -- to form.

7 Go ahead.

8 A. Yeah. I mean, again, it depends on  
9 exactly what you're saying. But I think when  
10 you're saying that direct consultative work to  
11 do an in depth evaluation, yeah, that's probably  
12 accurate, yes.

13 Q. Have you provided any sort of  
14 consultative services or third-party evaluation  
15 of therapeutic or mental health supports and  
16 services provide by an LEA?

17 MS. JOHNSON: Object to form.

18 A. And if you can specify more -- so now  
19 are you talking about -- when you say  
20 therapeutic services, you're not talking about  
21 things like functional behavior assessment or  
22 those kinds of practices, you're talking more  
23 about mental health services --

24 Q. Correct.

25 A. -- specifically?

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

39

1 Q. Yes.

2 A. No, I have not.

3 Q. Okay. Is there anything that we  
4 haven't discussed so far about the consultation  
5 work that you have or haven't done?

6 A. I don't think so.

7 Q. Okay. Would it be fair to say, then,  
8 Dr. Wiley, that your expertise, for purposes of  
9 your report, today is based on your experience  
10 as an academic?

11 A. I think, you know, like I said in my  
12 report, my experience is based on my knowledge  
13 about the research in the field.

14 It's also based on, you know, my  
15 experience in K-12 schools. And it's also based  
16 on my professional reasoning as a special  
17 educator who has worked quite a bit with kids  
18 with behavior-related disabilities.

19 Am I getting what you're asking?

20 Q. I think so, yeah.

21 A. Okay.

22 Q. No, absolutely.

23 A. Okay.

24 Q. And the purposes of these questions is  
25 just for me to get an understanding of --

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
40

1 A. Sure.

2 Q. -- how you approached this.

3 A. Absolutely.

4 Q. When you say your experience from K  
5 through 12 schools, are you talking back to your  
6 experience back before -- back in the '90s, in,  
7 like, Fairfax County and the like? Is that the  
8 experience that you're referring to?

9 A. Yeah. I mean, when you're talking  
10 about my school-based experience, yeah. That's  
11 mostly what I'm talking about.

12 Q. Okay. And is it fair to say that your  
13 expertise for purposes of your report today  
14 relates to the status of academic research  
15 regarding the educational placement of students  
16 with behavior-related disabilities?

17 MS. JOHNSON: Object to form.

18 A. I would say that's true, but when you  
19 say "academic research," the research that I'm  
20 talking about is research that takes place in  
21 schools. So it's more of an applied research.

22 I think that that even confuses my own  
23 students, where they say "What is this  
24 research?"

25 They just go into a lab in the

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
41

1 university, but the research that I'm talking  
2 about and the conferences that I go to and, you  
3 know, the conferences that we host, are all  
4 people who are doing research in the schools.

5 Q. I appreciate that clarification.

6 So fair to say, then, with that  
7 caveat, your expertise for purposes of your  
8 report today relates to the status of research  
9 regarding the educational placement of students  
10 with behavior-related disabilities?

11 MS. JOHNSON: Object to form.

12 A. That's part of my expertise, --

13 Q. Okay.

14 A. -- yes.

15 Q. What other -- what part am I missing  
16 or not appreciating there?

17 A. Well, -- oh, no. Sure. I mean,  
18 again, I'm talking about my experience as --

19 Q. Okay.

20 A. -- a special educator.

21 My experience directly consulting, all  
22 of those things together, but part of it is my  
23 understanding of academic research or applied  
24 research in the field.

25 Q. And not to belabor the point, when you

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
42

1 say your experience directly consulting, that's  
2 the professional development work that we've  
3 talked through already, correct?

4 A. Yes.

5 Q. Okay. Dr. Wiley, what's your  
6 understanding of what this case is about?

7 A. My understanding of what this case is  
8 about is that the Department of Justice has said  
9 that the state of Georgia is unnecessarily  
10 segregating students with behavior-related  
11 disabilities through their GNETS program.

12 Q. And what is that understanding based  
13 on?

14 A. My understanding is based on reading  
15 the materials. I'm not going to get the  
16 legalese correct, but the letter of findings,  
17 the complaint letter.

18 Also the motions that were filed by  
19 the DOJ and also state of Georgia. And also the  
20 expert reports by Dr. Putnam and Dr. McCart.

21 Q. And what is your understanding of what  
22 the United States is seeking in this case?

23 A. I -- I -- I think I've read the  
24 recommendations by the experts. I haven't been  
25 completely clear about exactly what the DOJ --

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
100

1 mark this one as Exhibit 979?

2 - - - - -

3 (Deposition Exhibit 979, Errata to  
4 Rebuttal Expert Report of Andrew Wiley,  
5 Ph.D., was marked for identification  
6 purposes.)

7 - - - - -

8 Q. All right. Dr. Wiley, I -- or Sarah  
9 has handed you what has now been marked as  
10 Exhibit 979.

11 Do you recognize this?

12 A. Yes.

13 Q. Is this a copy of an errata to your  
14 report identifying your considered materials?

15 A. Yes.

16 Q. And is this a comprehensive list of  
17 everything you reviewed and considered in  
18 forming your opinions in your report?

19 MS. JOHNSON: Object to form.

20 MR. GILLESPIE: What's the  
21 objection?

22 MS. JOHNSON: The report speaks for  
23 itself and there's other -- the report  
24 includes other items than on this list.

25 Q. You can answer the question, Doctor.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
101

1 A. Yes. I think what's here in the  
2 errata is accurate.

3 Q. And the inverse of that question. Did  
4 you review or consider anything in forming your  
5 opinions for this matter that's not on this  
6 list?

7 A. No.

8 Q. Who put this list together?

9 A. I did. And I got some help from  
10 Melanie with errata. We had to correct some  
11 references and we had to update some of these  
12 things. I'm a first timer, so I think I had  
13 forgotten a couple of things that really  
14 belonged on this list.

15 Q. And how did you -- how did you keep  
16 track of what you reviewed or considered in  
17 putting together your report?

18 A. Keep track of?

19 Q. Do you have like a file of your things  
20 for -- as part of your review in GNETS?

21 A. I have a folder, yes, with materials  
22 for the case. And I collected some of the  
23 literature that I cited and PDFs. So yeah. If  
24 that's what you mean, yeah.

25 Q. Absolutely.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
105

1 I obviously didn't make heavy reference to this  
2 specific training in my report, so I'm trying to  
3 remember.

4 Q. Maybe a better question is what's the  
5 connection to GNETS? Was it meant to be a  
6 training for teachers of the GNETS program, or  
7 what's the connection to GNETS? Why did you  
8 want to see it?

9 A. So what I learned in my conversations  
10 is that these trainings are offered to teachers  
11 in general ed, special ed, GNETS, everywhere.

12 If I'm recalling correctly, they  
13 receive the same invitations that other  
14 schools -- so I think they're invited to attend  
15 this training.

16 Q. Thank you. I appreciate that.

17 You also reviewed the 2014 GNETS  
18 operating manual; is that right?

19 A. Yes.

20 Q. And why was that something that you  
21 wanted to look at?

22 A. The specific thing that I was looking  
23 at is -- I think there was something in  
24 Dr. McCart's report that said that the way  
25 that -- and I don't know if she was being

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
106

1 general or speaking to Georgia, but she was  
2 saying that the way that these students were  
3 being referred to GNETS is they were being  
4 labeled and placed.

5 So the idea was, you know, we pick the  
6 label and then we have a program, which is  
7 against the law, you know, procedurally and  
8 substantively.

9 So the one thing that I focused on in  
10 particular in that was how they described how  
11 students were referred to GNETS. And I wanted  
12 to see if their materials -- if it was  
13 consistent with the way I understand the correct  
14 way that students were referred.

15 It was not label based. They pointed  
16 out that the students they serve tend to have  
17 the characteristics of kids with emotional,  
18 behavior disorders, but they also serve kids  
19 with autism spectrum disorders and OHI, which  
20 would probably mostly be ADHD.

21 So I was looking at it to see if what  
22 was conveyed in that manual was what Dr. McCart  
23 was saying was occurring.

24 Q. Thank you. That's helpful.

25 You also reviewed to Georgia DOE PBIS

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

114

1 Q. And so you identified topics, and then  
2 you were helped to find people who would speak  
3 to those topics?

4 A. That's right --

5 Q. Okay.

6 A. -- basically.

7 Q. Thank you.

8 And who is Jason Byars?

9 A. See, that's the one I'm not going to  
10 remember; Jason's background. I think I could  
11 tell you about Wina and Brooke and Cassandra --  
12 Dr. Holifield.

13 Q. Do you know if --

14 A. I would have to look. I don't have it  
15 in my brain.

16 Q. Do you know if Mr. Byars has ever  
17 worked in a GNETS program?

18 A. I do not know --

19 Q. Okay.

20 A. -- but based on my -- I don't know.

21 Q. And you also spoke -- you also spoke  
22 with several individuals as part of your  
23 evaluation, correct?

24 A. I did.

25 Q. And with whom did you speak?

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
117

1 the findings with the materials that I reviewed.

2 Q. At any point did you travel to the  
3 state of Georgia as part of your work in this  
4 case?

5 A. I did not.

6 Q. So you didn't conduct any observations  
7 as part of your evaluation, correct?

8 A. I did not, no.

9 Q. So did you consider anything in  
10 drafting your report that we have not discussed  
11 and that's not listed in the errata?

12 A. No. I think -- I think that's  
13 accurate and comprehensive.

14 Q. You didn't review any other documents?

15 A. No.

16 Q. You didn't review any other analyses?

17 A. What do you mean by "analyses"?

18 Q. Like data analyses, for example.

19 A. No. No.

20 Q. Were you told anything that informed  
21 your opinions that may not be reflected  
22 separately in a document? And by that I mean,  
23 for example, something you were told over the  
24 phone.

25 A. No.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023

143

1 head, but I assume that they must or you  
2 wouldn't bring it up. If I lost track of titles  
3 and things, that might have been it.

4 Q. Do you know who Vickie Cleveland is?

5 A. I know that name is familiar, but no,  
6 I don't know.

7 Q. Do you know who LaKesha Stevenson is?

8 A. No.

9 Q. Sean Owen?

10 A. Again, I might have seen these names  
11 listed --

12 Q. Sure.

13 A. -- as, you know, part of the  
14 depositions maybe, but no.

15 Q. But sitting here today, you don't  
16 recall who these individuals are.

17 And Matt Jones. Is that -- do you  
18 know who that is?

19 A. I don't.

20 Q. Okay. And you said you spoke with --  
21 actually, let me rephrase that.

22 You also said that Dr. Cassandra  
23 Holifield, Brooke Cole, and Jeannie Morris were  
24 all with the Georgia Department of Education as  
25 well?

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
146

1 Q. So maybe I'll -- for all four of these  
2 individuals, was it either a phone call or a  
3 Teams call?

4 A. Yes.

5 Q. Okay. And for Dr. Holifield, how long  
6 did you speak with her?

7 A. I didn't note the exact amount of  
8 time, but I think all of those conversations  
9 were between an hour and a half and two hours.

10 Q. Okay. Did who attended these  
11 discussions vary from call to call?

12 A. I think it was always just the  
13 individual, and then Melanie was with me on all  
14 of them. Again, I don't know why I think there  
15 might have been one other person from -- but I  
16 think it was just the three of us, yeah.

17 Q. And did you lead the discussion for  
18 each of these calls?

19 A. I did.

20 Q. Okay. And was it like this? Based on  
21 some notes that you put together --

22 A. Yeah.

23 Q. -- about what you wanted to discuss.

24 A. That's correct, yes.

25 Q. Did anyone else take notes during

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
163

1 what "those things" are.

2 A. Rebutting the claims that I listed  
3 that I rebutted from the expert reports.

4 So an example would be we now know how  
5 to include the vast majority of kids with  
6 behavior-related disabilities. That's, in my  
7 opinion, not correct and not consistent with  
8 knowledge in the field.

9 So that would be an example of, you  
10 know, that doesn't require me to specifically  
11 look at -- to do the observations and the  
12 extensive records reviews that over years I  
13 think, in my understanding, Dr. Putnam and  
14 Dr. McCart did.

15 Tell me if you need that clarified,  
16 because I can say it again.

17 Q. No. Thank you. I appreciate that.  
18 Are you familiar with the term  
19 "community service board"?

20 A. Not very familiar. So I think no.

21 Q. Did you communicate with any staff of  
22 the Department of Behavioral Health and  
23 Developmental Disabilities?

24 A. I did not.

25 Q. Did you communicate with Heather

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
164

1 George about the GNETS program at all?

2 A. I did not.

3 Q. Are you familiar with the  
4 Interconnected Systems Framework, or ISF?

5 A. I am generally familiar and I am  
6 familiar with a recent randomized control trial.  
7 I know that it's something where they're trying  
8 to bring essentially wraparound together with  
9 PBIS.

10 So I know a little bit about it.  
11 Again, I would describe wraparound and the  
12 framework as a promising practice, but we  
13 haven't solved all the problems and we don't  
14 know if that makes it possible to include the  
15 vast majority of kids with behavior  
16 disabilities. Behavior related.

17 Q. And you didn't specifically consider  
18 any version of the ISF manual in preparing your  
19 rebuttal report, correct?

20 A. A specific version of the manual. I  
21 did not.

22 Q. Did you consider any version of the  
23 manual in considering your report?

24 A. The ISF manual?

25 Q. Yes.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
165

1 A. No.

2 Q. Okay.

3 A. I did have a section where I  
4 responded -- and I know that Dr. Putnam in  
5 particular spent a lot of time. He gave some  
6 examples of, you know, wraparound research.

7 And I think, again, it's promising,  
8 but we're not at a point where we know how to do  
9 it. And we also don't know how well that serves  
10 kids with behavior-related disabilities in  
11 general ed in particular.

12 I'm hopeful. You know, I think -- I  
13 hope I made that clear. I hope we're able to  
14 develop that and solve all the implementation  
15 problems. But I don't think it's right to say  
16 that wraparound is ready for prime time.

17 Q. Are you aware whether Georgia offers a  
18 high fidelity wraparound intervention for  
19 children with behavior-related disabilities?

20 A. I am not aware.

21 And I will say that wraparound is not  
22 my heavy sort of area of focus and expertise. I  
23 did read in the reports about some of the  
24 community health and some of the things that  
25 are -- have been started and are being used to

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
166

1 some degree, but I can't really characterize  
2 what exactly is in place, how it's accessed, how  
3 well it's being implemented.

4 I was a little better able to look at  
5 things like PBIS implementation. So yeah.

6 Q. Sure. That's helpful. Thank you.

7 Do you know whether the state of  
8 Georgia's done any research relating to  
9 educational outcomes for children receiving high  
10 fidelity wraparound intervention?

11 A. I don't think I'm aware. I do think  
12 that I saw mention of some grants, which I don't  
13 know if they're research grants or  
14 implementation grants, related to, you know,  
15 community mental health.

16 Q. Are you aware whether Georgia  
17 encourages the use of PBIS -- of the PBIS  
18 framework in its school?

19 A. I am aware. And my opinion is yes,  
20 they do encourage it.

21 Q. Are you aware whether the state of  
22 Georgia has a PBIS strategic plan?

23 MS. JOHNSON: Object to form.

24 A. I am not aware. I don't recall seeing  
25 it on the website, but ...

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
167

1 I think that they do, but I'm not sure  
2 exactly where I saw that.

3 Q. Are you aware of whether the state of  
4 Georgia has endorsed a system of care approach  
5 to coordinating its programs and services for  
6 children with behavior-related disabilities?

7 MS. JOHNSON: Object to form.

8 A. I am not aware. I think that that was  
9 mentioned, again, in the report. And without  
10 looking at Dr. Putnam's report I think that  
11 there is endorsement of a system of care, but  
12 that's just -- I may not be remembering  
13 correctly.

14 Q. Are you aware of whether the state of  
15 Georgia offers intensive family intervention  
16 services for children with behavior-related  
17 disabilities?

18 MS. JOHNSON: Object to form.

19 A. I am not aware of if or how they  
20 provide that.

21 Q. And do you know whether the state of  
22 Georgia has endorsed that service as effective  
23 for children who may be at risk for restrictive  
24 placement?

25 MS. JOHNSON: Object to form.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
169

1 various kinds to address their needs.

2 I think system of care might relate to  
3 that, but I'm not sure.

4 Q. Thank you.

5 So earlier, Doctor, you told me that  
6 you reviewed the transcripts for Dr. McCart and  
7 Dr. Putnam in their depositions.

8 Have you reviewed anything else  
9 related to this matter since completing your  
10 report?

11 A. I have not. And again I want to  
12 emphasize that I didn't read thoroughly their  
13 depositions, but I looked at some parts of it.

14 Q. And I'm guessing -- is there anything  
15 from your view of either of those that changes  
16 your opinions in your report?

17 A. No.

18 Q. No.

19 So, Dr. Wiley, before we dive into the  
20 specifics of your report, I just -- I want to  
21 begin by getting clarification of what opinions  
22 that I understand you're not giving in this  
23 case.

24 So, Dr. Wiley, you offer no expert  
25 opinions on whether any students in the GNETS

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
170

1 program could or should be appropriately served  
2 in a general education environment, correct?

3 A. On any individual students?

4 Q. Correct.

5 A. No. And I don't think the other  
6 experts did either. If I'm right, but -- yeah.

7 Q. And I'm just asking here --

8 A. Yes.

9 Q. -- to get an understanding --

10 A. No, that's right. That's right. No  
11 individual students.

12 Q. What you are and are not saying.

13 A. Yes. Good.

14 Q. You also offer no expert opinions on  
15 the sufficiency of the provided mental health  
16 and therapeutic services to meet the needs of  
17 the students in the GNETS program, correct?

18 A. Individual students or students  
19 overall?

20 Q. Either.

21 A. Either. No, I'm not.

22 Q. You're not offering any opinions of  
23 Georgia's implementation of PBIS, correct?

24 MS. JOHNSON: Object to form.

25 A. Well, I think that I did, you know,

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
174

1                   So the opinion that you're giving on  
2 Georgia's implementation of PBIS is the extent  
3 to which schools in the state of Georgia have  
4 implemented some tier of PBIS, correct?

5           A.           Right. That's what the state reports.

6           Q.           And that's based only on the state  
7 data on the PBIS website that you looked at,  
8 correct?

9           A.           Yes. Yes, that's correct.

10          Q.           And so your opinion on PBIS is just  
11 measuring the state reported data of its own  
12 implementation compared to data available to you  
13 from other states?

14          A.           Yeah. And that's a universal thing,  
15 though, for states to complete their own tiered  
16 fidelity inventories. So it's not that outside  
17 people come in and say okay, we're going to look  
18 at you. The way that it works -- and it's good,  
19 it's just not perfect --

20          Q.           Sure.

21          A.           -- for them to fill it out themselves.

22          Q.           I want to make sure -- no, you're  
23 great.

24                       I just want to make sure that I'm  
25 getting this exactly right, that the extent of

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
175

1 your opinion on Georgia's implementation of PBIS  
2 is just measuring that state reported data --  
3 actually, let me withdraw that.

4 Comparing that state reported data  
5 from Georgia to other states. That's -- that's  
6 your opinion on Georgia's implementation of  
7 PBIS, correct?

8 A. Yeah. If my opinion is to  
9 characterize their implementation, it's that.

10 And then the other thing that's kind  
11 of hard to get throughout my report is it's hard  
12 to give an opinion on a level of implementation  
13 when implementation is not really clearly  
14 defined in the field yet. That's my opinion.

15 And so you're right. I mean, I would  
16 have to rely on whatever self-report data that  
17 they have. I didn't go into schools and use  
18 the -- and, by the way, that's one of them, you  
19 know, the fidelity instrument.

20 But relying on what they've said.  
21 They're in a very similar place. And in some  
22 ways at that tier one level of implementation  
23 above that 24 percent that's reported for all  
24 states.

25 And the other part of my opinion is to

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
176

1 say implementation is more challenging than I  
2 think the experts are saying. And so it's not  
3 like hey, we just don't provide enough training,  
4 we don't have the motivation, it's that these  
5 frameworks are very complex, difficult to  
6 sustain. I think they're good, you know.

7 One of the things I wrote about in my  
8 report is in a lot of ways they've made more  
9 progress than other things, but it's still we  
10 have to be realistic about where we are in terms  
11 of what we know about implementing PBIS.

12 Q. Understood. Thank you.

13 Dr. Wiley, you're not offering any  
14 expert opinions on the sufficiency of the scope  
15 or quality of mental health and therapeutic  
16 services available to students in the GNETS  
17 program, correct?

18 A. Certainly not individual students.  
19 And then also no about -- about whether or not  
20 the scope and quality is sufficient.

21 Q. And you're not offering any expert  
22 opinions on the sufficiency of the scope or  
23 quality of services and supports provided in  
24 general education settings in Georgia, correct?

25 A. That is correct. I'm not providing

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
177

1 that opinion, but I am providing an opinion  
2 about the claims by the experts that we now know  
3 how to do that and schools could do it if they  
4 just did it.

5 Q. Understood.

6 A. Does that make sense?

7 Q. Yeah.

8 You're also not offering opinions on  
9 the scope or quality of community mental health  
10 and therapeutic services in the state of  
11 Georgia, correct?

12 A. That's correct.

13 Q. And you're not offering any expert  
14 opinions on whether any aspect of the education  
15 that students in the GNETS program receive is or  
16 is not inferior to that of students in general  
17 education schools in the state of Georgia,  
18 correct?

19 A. So you're saying I'm not offering an  
20 opinion about what's actually happening within  
21 GNETS schools?

22 Q. On whether any aspect of the education  
23 that students receive -- students in the GNETS  
24 program receive is or is not inferior to that of  
25 students in general education settings in the

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
179

1 And it's kind of like these are my conclusions,  
2 but it's not clear to me how they looked and how  
3 they reviewed records.

4 And it's similar to reviewing a  
5 manuscript, which I know Dr. Putnam and  
6 Dr. McCart and I -- you know, we review research  
7 studies. You look at the method and we say are  
8 these conclusions.

9 So that was a little bit of the hat  
10 that I had on when I said, you know, have they  
11 provided a student that I can look at and also  
12 have their methods accurately characterize what  
13 is and is not happening in GNETS and what is or  
14 is not happening in the general ed schools. I  
15 feel like we don't have that is my opinion. We  
16 don't have that information to look at.

17 Q. But you didn't conduct any individual  
18 or systematic review of educational settings in  
19 Georgia for appropriateness of educational  
20 services, correct?

21 A. I didn't. I don't think anybody else  
22 did either.

23 Q. And you're not offering any expert  
24 opinions on the methodology used by either of  
25 the United States' experts in this case, are

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
181

1 general ed with these particular settings,  
2 that's the big part of my section where I say  
3 well, hold on. You know, is this really the  
4 consensus of the field? How much do we actually  
5 know? Sorry.

6 Q. And -- no. No. Dr. Wiley, --

7 A. I interrupted you again. I apologize.

8 Q. -- I appreciate what you're saying,  
9 and I promise you we're going to spend most of  
10 our time today talking about what opinions you  
11 are giving, but --

12 A. Okay.

13 Q. -- I just -- you know, before we get  
14 into that, I want to have some clarity on the  
15 areas where you're not providing an expert  
16 opinion.

17 A. Okay.

18 Q. And so just here I want to clarify  
19 you're not offering any expert opinions on  
20 whether any students in the GNETS program could  
21 be equally or better served in a more integrated  
22 environment, correct?

23 A. Any individual students. No, I'm not.  
24 Is that okay, for me to clarify it that way?

25 Q. Yeah.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
182

1 A. Okay.

2 Q. But then I'm going to ask any group of  
3 students.

4 A. Kids with behavior-related  
5 disabilities I think I am offering an opinion.

6 But I think what you're getting at --  
7 I don't mean to be -- I'm sorry.

8 Q. No.

9 A. You're saying that I didn't go in and  
10 look at the program to say are there kids here  
11 that could be in general ed if they just did X,  
12 Y, or Z.

13 Q. Right.

14 A. That, I think, is accurate.

15 But I think when we're talking about  
16 the population of kids and when we've looked at  
17 them systematically through research, that's the  
18 opinion that I'm offering.

19 Q. But nothing relating to Georgia  
20 specifically or GNETS specifically, --

21 A. A specific --

22 Q. -- correct?

23 A. -- school or a specific student,  
24 that's correct.

25 Q. Or even statewide.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
183

1 A. Right.

2 Q. Yeah. Thank you.

3 As I understand your report, at least  
4 sections II through V, your purpose was to  
5 correct what you saw to be misunderstandings on  
6 the literature around placements interventions  
7 generally, correct?

8 A. Yes.

9 Q. And in so doing, you provide a defense  
10 for having separate placements generally,  
11 correct?

12 A. Yes.

13 Q. But, again, you're not offering expert  
14 opinions on the GNETS program itself, correct?

15 A. Well, GNETS program being a program  
16 that offers separate schools on the continuum of  
17 alternative placements. Just in that sense,  
18 yes.

19 Q. Okay. Thank you.

20 When I pause, I'm just trying to see  
21 if I can --

22 A. No.

23 Q. -- truncate things --

24 A. No.

25 Q. -- a bit.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
186

1 programs or individual GNETS programs, I didn't,  
2 but it's my opinion that I didn't have to to  
3 rebut the claim, right, that there are thousands  
4 of kids who are unnecessarily segregated.

5 Does that make sense?

6 Q. Yes.

7 A. Okay.

8 Q. And I track you with that.

9 A. Okay.

10 Q. But, Dr. Wiley, I just want to make  
11 sure that I have clarity on this.

12 A. Yes.

13 Q. You aren't offering expert -- an  
14 expert opinion in this case as to whether the  
15 GNETS program statewide, or any particular GNETS  
16 program, unnecessarily segregates students with  
17 disabilities, correct?

18 A. I am not offering that opinion and I  
19 don't think anybody gathered the information  
20 that would allow us to make that determination.

21 Q. Understood. Thank you.

22 A. So, yeah.

23 Q. It's your expert opinion, Dr. Wiley,  
24 that some students are best served in separate  
25 educational settings, correct?

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
214

1           A.           Because the students in the GNETS  
2 program were not sort of individually described,  
3 then my rebuttal applies to what I think she's  
4 saying about the GNETS program being students  
5 with behavior-related disabilities.

6                       So I think my rebuttal applies to the  
7 GNETS program based on what Dr. McCart did or  
8 didn't provide. But it's also more generally to  
9 students with behavior-related disabilities.

10          Q.          So your rebuttal applies to -- well,  
11 let me keep focus on -- your rebuttal to this  
12 quote applies to GNETS, insofar as it applies to  
13 students with behavior-related disabilities  
14 generally, and those are some of the students  
15 that are in GNETS. Is that an accurate --

16          A.          Correct.

17          Q.          -- paraphrase?

18          A.          Yes.

19          Q.          So in the next quote you wrote -- or  
20 you quoted Dr. Putnam, who wrote "Researchers,  
21 service providers, and educators have coalesced  
22 around a core set of interventions -- including  
23 functional behavior assessments and behavioral  
24 intervention plans, wraparound services, family  
25 and community support, and individual and group

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
237

1 that she's stating something that she doesn't  
2 provide enough support for.

3 Q. Thank you.

4 All right. Now looking at this next  
5 section here, also on page 3.

6 A. Okay.

7 Q. You provide summaries of the five  
8 major opinions of your report, correct?

9 A. Uh-huh.

10 Q. And what was your process for  
11 identifying these five focus areas of your  
12 report?

13 A. Well, reading the reports and reading  
14 the claims that were made -- and a lot of them,  
15 again, have been made by sometimes very  
16 prominent people in special education -- so  
17 a lot of my scholarship is around inclusion in  
18 kids with emotional, behavioral disorders.

19 And so when I read what the claims  
20 were, I sort of laid out what I thought were the  
21 most important ways to rebut what those  
22 conclusions were.

23 And so the first one -- even though,  
24 you know, my expertise is not specifically the  
25 law, you know, I was trying to understand from

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
238

1 my training in IDEA what -- how to reconcile  
2 that with the requirements of the ADA. So that  
3 was the first section.

4 And I think it's important because  
5 unnecessary segregation inevitably relates to,  
6 from an IDEA perspective, how are decisions made  
7 about the LRE for an individual student.

8 So, as -- I thought about what was  
9 being said, what was being included. That was  
10 my first section.

11 Do you want me to walk through all of  
12 them, or?

13 Q. Well, you know what, we were about to  
14 do that.

15 A. Okay.

16 Q. So let's do it step-by-step. And you  
17 just very helpfully began talking about the  
18 first section. So let's start there.

19 And, Dr. Wiley, you're not a licensed  
20 attorney, correct?

21 A. That's correct.

22 Q. And you have no formal legal training?

23 A. That is correct.

24 Q. And are you familiar outside of this  
25 with the Americans with Disabilities Act?

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
239

1           A.           At a very introductory level. In our  
2 introduction to exceptionalities course, for  
3 example, most of the textbooks have a chapter  
4 that's -- has ADA and 504.

5                       Because from a historical perspective  
6 it's import to understand all of these different  
7 laws. And then of course IDEA gets sort of the  
8 heaviest treatment because it's the one that we  
9 think about as applying to special education  
10 most directly.

11          Q.           But you don't purport to be an  
12 expert --

13          A.           No.

14          Q.           -- in the legal application of the  
15 ADA, correct?

16          A.           Of the ADA, no.

17          Q.           And in section I of your report, you  
18 provide your analysis as to how the requirements  
19 of the ADA and IDEA should be understood,  
20 correct?

21          A.           Uh-huh. As I understand them, yeah.  
22 And I think my understanding of IDEA is deeper.  
23 Again, I don't claim to be a special ed law  
24 expert, but all of our preservice teachers have  
25 to be trained in the requirements of IDEA; what

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
241

1 A. Page 4?

2 Q. Yeah.

3 A. Okay.

4 Q. At the top of page 4.

5 A. Got it.

6 Q. And just the line here you include  
7 that says "DOJ's experts did not examine  
8 individual students' needs."

9 Do you see that?

10 A. Yes.

11 Q. What is this statement based on?

12 A. The fact that I didn't see examples of  
13 individual students who the DOJ was claiming  
14 could be served in general ed environments.

15 Q. Are you aware if either expert for the  
16 United States reviewed and considered student  
17 specific records?

18 A. I saw that there was review of  
19 records. I think that was reported as part of  
20 the method for both of those experts.

21 Q. But you didn't take a look at what  
22 records were reviewed to see what the scope of  
23 the evaluation was, correct?

24 A. I didn't. I looked at the conclusions  
25 based on those reviews, and I didn't see where

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
242

1 the experts use those reviews to say here are  
2 example of students that we're talking about.

3 Q. This first sentence in paragraph III,  
4 also on page 4, you wrote that "Research does  
5 not show that inclusion (placement in general  
6 education) is categorically more beneficial than  
7 placement in specialized settings (e.g.,  
8 self-contained classrooms, separate school) for  
9 students with behavior-related disabilities."

10 Did I read that correctly?

11 A. Yes.

12 Q. Would you agree that research does  
13 support placement of students in the least  
14 restrictive environment?

15 A. Which is not always general education.

16 And that's an interesting -- because  
17 the least restrictive environment -- you know,  
18 the problem is the placement research. And so,  
19 actually, I don't know that research would tell  
20 us that the placement -- least restrictive  
21 environment. That's more like a principle of  
22 IDEA that has very good reasons for it.

23 I'm answering honestly, because I  
24 can't think of the research that would say --  
25 the research that would say placement in LRE is

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
255

1 Q. Do you know how this data's collected?

2 A. The states are required to report it.  
3 I don't know the nuts and bolts of it exactly,  
4 but all states are required to report how many  
5 kids are identified, under what categories, and  
6 some other things. Exit, like graduation, data.  
7 There are a number of things that are collected  
8 for IDEA every year.

9 Q. And you didn't take any steps to  
10 independently validate any of this data,  
11 correct?

12 A. I did not. I'm assuming that this  
13 federal data would be accurate. But it  
14 certainly could have errors in it that I'm not  
15 aware of.

16 Q. Do you know what constitutes a  
17 separate school under this chart?

18 A. I think that a separate school --  
19 uh-oh. Is that someone --

20 Q. Yeah, we're good. You're good.

21 A. Okay. You can see these categories.  
22 80 percent or more of the school day in regular  
23 class, 40 to 79 percent, and then less than 40.

24 And I think a separate school would be  
25 entirely separate from general education. So

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
256

1 essentially zero percent in a general ed school.

2 Q. And is that your assumption from  
3 looking at this, or did you see that somewhere?

4 A. That's my understanding --

5 Q. Okay.

6 A. -- yeah. There may be definitions,  
7 but I'm pretty sure -- I've done some research  
8 around these IDEA data, and I'm pretty familiar.  
9 So I think I'm right, but ...

10 Q. Is GNETS considered a separate school  
11 for purposes of this data, or -- do you know?

12 A. I would assume that because these are  
13 kids with IEP they're being reported with the  
14 other state data. And I know that GNETS is some  
15 separate schools, also has some self-contained  
16 classrooms.

17 So my guess would be in Georgia the  
18 GNETS, for example, that are in the  
19 self-contained classrooms could be under less  
20 than 40 percent of the day.

21 But, yes, my assumption would be that  
22 the GNETS students are in separate schools for a  
23 GNETS program would be in that 9.9 percent.  
24 That's my assumption.

25 Q. And when you say GNETS students in a

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
260

1 education setting?

2 A. Yeah. So I think that it would be  
3 that if they weren't making satisfactory  
4 progress in the self-contained classroom.

5 Q. Thank you.

6 Turning back to table 2.

7 A. Yes.

8 Q. From this table, in your review of the  
9 material underlying this table, are you able to  
10 discern the categories of supports and services  
11 provided to students in any of these settings?

12 A. That is not included in this table.  
13 And I'm trying to think if anything -- and, you  
14 know, this is one of the things that -- when  
15 I've written about instructional inclusion, it's  
16 very -- in some ways it's really easy to collect  
17 data that says where are the kids. Right. Are  
18 they in general ed.

19 Understanding what services and  
20 supports there I think would be great to know,  
21 but it's much more difficult to figure out a way  
22 to collect those data and then report them.

23 But it doesn't -- it doesn't -- this  
24 table will not tell you what services and  
25 supports are provided.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
262

1 different states, but I would assume that that  
2 would -- how they would be reported with their  
3 IEPs.

4 Did I dive into exactly how Georgia is  
5 reporting these required federal data, no, but I  
6 think I could assume that that's what they would  
7 be reported under.

8 Q. Dr. Wiley, let's turn to page 19,  
9 please.

10 I'm looking at the first full  
11 paragraph under the "CAP" title, subheading.  
12 You wrote, the last sentence -- last two  
13 sentences there, "Students are referred to GNETS  
14 through the IEP process, as required by IDEA.  
15 If an IEP team determines that a student with a  
16 behavior-related disability has not benefited  
17 educationally in a less specialized placement,  
18 placement in a GNETS program can be considered.

19 Dr. Wiley, what were these  
20 statements -- actually, let me rephrase that.

21 Were these statements based off of  
22 your review of the things listed in the  
23 considered materials?

24 A. The manual would be one where -- I  
25 believe that's where I read the description of

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
263

1 the procedures for referral to GNETS. And it  
2 also came up in my conversations with some of  
3 the Georgia Department of Ed staff.

4 Q. And -- but you did not evaluate the  
5 supports and services offered by Georgia's  
6 general education requirements, correct?

7 A. For individual students, no, I didn't.

8 Q. Or collectively.

9 A. Or collectively. That's correct.

10 Q. And you can't speak to what  
11 alternative placements are actually available to  
12 students with disabilities in the state of  
13 Georgia, correct?

14 A. Do you mean other kinds of special  
15 schools besides GNETS? When you say  
16 "alternative," I'm just trying to --

17 Q. Yeah. Referring to the -- again to  
18 the continuum that you're talking about --

19 A. Yeah.

20 Q. -- in this section.

21 A. Yeah.

22 Q. You can't speak to what other options  
23 there are in the continuum in the state of  
24 Georgia, correct?

25 A. I can't except that, as you saw in the

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
275

1 identified and get the appropriate services to  
2 their individual needs as we can.

3 Q. But if I understood you correctly,  
4 what you were saying a few moments ago with  
5 relation to this table 2 is that you can't tell  
6 from this whether students who are in regular  
7 classrooms some or all of the time are being  
8 appropriately served in --

9 A. Not in this table. That's right.

10 Q. But you also can't tell for students  
11 in separates schools; is that correct?

12 A. I can't tell for either one.

13 Q. Okay.

14 A. This is just how many are served in  
15 these particular settings. That's right.

16 Q. When you use this term in this  
17 sentence that we discussed back on 21 --

18 A. Okay.

19 Q. When you use the term critics of full  
20 inclusion, do you include yourself in that  
21 group?

22 A. Yes.

23 The "full" is the critical qualifier.  
24 I am not a critic of inclusion, appropriate  
25 responsible inclusion.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
300

1 time to do it at the highest level of, like,  
2 peer-reviewed research, but I would expect that  
3 there would have been more transparency in the  
4 process and more checks on those findings.

5 Q. Do you think in putting together your  
6 report that your methodology was consistent with  
7 standards in the field?

8 A. My -- my -- well, -- so if I used the  
9 method if this was to be compared to research,  
10 it would be a synthesis of research around a  
11 particular problem.

12 And I think that what I did in terms  
13 of identifying literature that was relevant to  
14 the analysis -- again, maybe not quite to peer  
15 reviewed, but I think I had a process whereby I  
16 tried to identify research that synthesized  
17 everything. Right.

18 So if I used syntheses in literature  
19 reviews, it's not oh, I've cherry-picked a study  
20 here or there that I thought oh, yeah, this one  
21 really supports my case.

22 I was looking at here are the people  
23 who have synthesized research on a particular  
24 intervention or and inclusion and I'm basically  
25 reporting these are the things that they

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
302

1 too much focus on that, but as far as the way I  
2 reviewed the literature as part of, not my  
3 entire, rebuttal report was -- it was made with  
4 effort to be objective about what the research  
5 says.

6 Q. And if you were to opine on the GNETS  
7 program specifically, what methodology would you  
8 use to conduct a thorough evaluation?

9 A. And this would be similar to, you  
10 know, my experience with program evaluation.  
11 And I can give you that example. Now, this was  
12 one program within a Massachusetts collective,  
13 but --

14 Q. You're talking about back when you  
15 were --

16 A. Yes.

17 Q. -- a graduate student?

18 A. Right. And I haven't pulled the name  
19 of the school yet.

20 Observations, records reviews,  
21 interviews with faculty. And we had  
22 instruments, because this was a research  
23 instrument -- institution for systematic reviews  
24 of records and observation tools that allowed us  
25 to focus on particular things and state upfront

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
303

1 here's what we were looking for.

2 So we were trying to give the  
3 leadership, and also the faculty there, as  
4 accurate of a picture of what we saw going on  
5 with our program and make recommendations for  
6 how they might improve.

7 So program evaluation includes some of  
8 the things. And I get it, there are decisions  
9 that have to be made in limited periods of time,  
10 but that's what I would suggest would have added  
11 more credibility to some of the conclusions.

12 Q. And how large was that program in  
13 Massachusetts?

14 A. That was one school. So I -- you  
15 know, I can only ballpark. 30 to 40 students.

16 Q. And what was your process with -- so  
17 you said, again, that your report is about --  
18 mostly about being a synthesis of the research,  
19 and so what was your process, then, for  
20 synthesizing the research?

21 A. Oh. Well, I looked at specific claims  
22 about, you know, just, for example, you know, we  
23 now know that X, Y, and Z are effective and can  
24 be implemented in general ed. Like those kinds  
25 of -- and then I said well, what is the actual

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
306

1 I'm giving the examples of section IV,  
2 I want to say, where I was looking at, you know,  
3 what do we know about making general ed  
4 appropriate and effective for students with  
5 behavior-related disabilities.

6 Q. But you would agree that the  
7 evaluation you conducted would not have been  
8 consistent with standards in your field if you  
9 were opining specifically on the sufficiency of  
10 the GNETS program, correct?

11 A. What I think I did here was  
12 appropriate for a rebuttal report of specific  
13 claims.

14 If my task was to go and evaluate a  
15 program, then I would have used a different set  
16 of methods. Some of them would have been  
17 similar to, for example, Dr. McCart. And I know  
18 Dr. Putnam also visited some.

19 But I would have used a more  
20 structured transparent approach. That's all I'm  
21 saying.

22 Q. Understood. Thank you.  
23 Let's go to page 25, please.

24 A. Yes.

25 THE WITNESS: Does it matter that

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
327

1 want to say that because I included this as an  
2 example in my report that it's the only place  
3 where you could look for a summary of, you know,  
4 hallmarks of effective programming for kids with  
5 EBD.

6 But yes, these are some of the things  
7 that I would use to look at and evaluate, again,  
8 any setting, whether you're serving a kid in  
9 general or at a special setting. Yeah.

10 Q. Dr. Wiley, in your work today do  
11 you -- are you ever on students' IEP teams?

12 A. I am not.

13 Q. Have you ever been on a student's IEP  
14 team?

15 A. Yes, I have.

16 Q. When was the last time you were on a  
17 student's IEP team?

18 A. It probably would have been when I  
19 was -- before I started my doctoral program.  
20 When I was working in schools.

21 Q. Okay.

22 A. It's pretty unusual for a researcher  
23 to be placed on an IEP team.

24 Q. Do you ...

25 Do you ever review IEPs as part of

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
328

1 your work?

2 A. Well, I have some doctoral students  
3 who that's part of their dissertation research.  
4 And so we have redacted IEPs that they've looked  
5 at and evaluated for quality.

6 The student that I'm thinking about  
7 right now has identified -- like I was talking  
8 about, records review forms. There are a number  
9 of forms that have been used in research to  
10 objectively evaluate IEP components and things  
11 like that.

12 And the only other thing I would add  
13 is that in some of our classes we use -- now,  
14 these are not classes I teach, but our faculty  
15 all work together.

16 We have an IEP class where they're  
17 actually looking at real life IEPs to try to  
18 understand procedural and substantive components  
19 of IEPs.

20 Q. In those settings you're reviewing to  
21 IEPs for educational purposes or research  
22 purposes, correct?

23 A. Educating the preservice teachers.  
24 That would be the class example.

25 And then for research the student I'm

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
329

1 thinking of specifically is interested in kids  
2 who are deaf or hard of hearing, and she's  
3 designing her dissertation to be an evaluation  
4 of IEPs for kids who are deaf or hard of  
5 hearing.

6 Q. And I guess my next question is have  
7 you in the last 10, 15 years reviewed a  
8 student's IEP for sufficiency or fidelity of  
9 implementation or anything along those lines?

10 A. I have not.

11 Q. Okay.

12 MR. GILLESPIE: I forget when we  
13 dropped off last time. Are we about an  
14 hour in?

15 MS. ADAMS: Yeah.

16 MR. GILLESPIE: Yeah. Let's take a  
17 break.

18 THE WITNESS: All right.

19 THE VIDEOGRAPHER: All right. Off  
20 the record, 3:44.

21 - - - - -

22 (A recess was taken.)

23 - - - - -

24 THE VIDEOGRAPHER: On the record,  
25 4:00.

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
342

1 I made note of what I was told by these  
2 different people.

3 Q. I think we covered this, but it would  
4 have been this morning.

5 Did you ask to speak with anyone that  
6 you didn't get to speak with?

7 A. No.

8 Q. Okay.

9 A. I had no request denied, if that's  
10 what you're describing, --

11 Q. Yes.

12 A. -- I'd like to talk to.

13 Yes, that's true.

14 Q. Did you ask if there were some parents  
15 who felt differently than what you describe  
16 here?

17 A. I did not ask that question, and I  
18 didn't know that that would be a realistic ask,  
19 to be able to speak to parents and also to be  
20 able to -- I mean, I'm saying that now, but --  
21 you know, when I think about it, but I think it  
22 didn't occur to me because I didn't know that  
23 that might be something that I would be able to  
24 do in my capacity as an expert witness.

25 So instead I talked to some folks that

ANDREW WILEY, PH.D.  
UNITED STATES vs STATE OF GEORGIA

October 30, 2023  
343

1 have worked in GNETS.

2 Q. You're not purporting to be -- to  
3 provide expert testimony on what parents do or  
4 do not feel about the GNETS program, correct?

5 A. I am not, but can I say one other  
6 thing? I know I'm doing this and I'm -- you  
7 know, it was interesting to me to read the ADA  
8 language about whether or not students with  
9 behavior-related disabilities would object to  
10 being placed in general education. Right. I  
11 sort of got that right.

12 And I think it's interesting because  
13 what that means within a school-aged kid with  
14 disabilities in the IEP process -- I'm not  
15 saying that there are -- like, the IEP process  
16 is not -- is always perfect. So I'm not using  
17 that as a perfect proxy for parents expressing  
18 what they wanted.

19 But they are required to be part of  
20 the IEP process, including the placement  
21 decision, and I just wondered -- I'm not going  
22 to say anything that's a conclusion about that  
23 except how does that work when you say what is  
24 the preference of the student when you have this  
25 IEP process where the parent is supposed to have